IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11360 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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UNION OF INDIA

Versus

CHANCHALBEN WD/O PARVAT NARSINGH

Appearance:

1. Special Civil Application No. 11360 of 2000
MR MUKESH A PATEL for Petitioner No. 1-3
Mr.M.S.Trivedi for respondent.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of decision: 16/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

The husband of the respondent herein was

appointed as a substitute gangman in the year 1982 and while he was working under CPWI(I), Anand he expired on 14.11.1985. At that the time he had to his credit service for a period of three years and seven months. In the year 1999 the respondent, i.e. the widow of deceased Parvat Naransingh, deceased Substitute Gangman filed Original Application before the Central Administrative Tribunal with a prayer for compassionate appointment of her son who had attained majority in 1998 and for family pension. The relief with regard to compassionate appointment was not pressed before the Tribunal. Prayer for family pension was opposed by the present respondents on the ground of limitation that the Original Application has been filed in the year 1999 whereas her husband had expired way back in 1985. The tribunal rejected this objection about limitation on the ground that question of pension gives a continuous cause of action.

2. So far as the merits of the case are concerned, it is undisputed that the husband of the respondent was serving as a substitute Gangman and it is also not in dispute that he had put in continuous service of more than one year prior to his death. The tribunal for consideration of her entitlement to the family pension relied upon the decision of the Supreme Court in the case of Prabhavati Devi vs Union of India reported in 1996 SCC (L & S) 369 and after distinguishing the case of Rabia Bikaner reported in 1997 (4) Scale 625 and with reference to the Rules for a substitute found her entitled to family pension under Sub-rule 3(b) of Rule 2311 read with Rule 801 of the Railway Establishment Manual held that the widow of respondent in the present case was entitled to family pension with effect from the date of death of her husband along with arrears.

3. The learned advocate for the petitioner has attempted to assail this order by saying that the husband of the respondent had not acquired regular status. So far as the entitlement to the family pension is concerned, it was not necessary that he must have acquired the status of regular employee.

4. We do not find any merit in this petition and the same is hereby rejected. Rule is discharged. Ad interim relief granted earlier stands vacated. No order as to costs.

16.7.2001 (M.R.CALLA,J)

mty (N.G.NANDI,J)